

**THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

MICHAEL RAY GOUDY

PLAINTIFF

v.

CIVIL CASE NO. 4:19-CV-64-RP

COMMISSIONER OF SOCIAL SECURITY

DEFENDANT

AMENDED JUDGMENT

This cause is before the Court on the Plaintiff's complaint pursuant to 42 U.S.C. § 405(g) for judicial review of an unfavorable final decision of the Commissioner of the Social Security Administration regarding an application for supplemental security income. The parties have consented to entry of final judgment by the United States Magistrate Judge under the provisions of 28 U.S.C. § 636(c), with any appeal to the Court of Appeals for the Fifth Circuit. The Court, having reviewed the record, the administrative transcript, the briefs of the parties, and the applicable law; and having heard oral argument; and for the reasons below and for those stated in the court's order this day on the Commissioner's Motion for Relief from Judgment or Order, finds the Commissioner's decision is not supported by substantial evidence because the ALJ failed to fulfill his duty to fully and fairly develop the record.

After learning at the administrative hearing that the plaintiff had received treatment at Baptist Medical Center - Attala ("Baptist") in the time since June of 2016, the ALJ informed the plaintiff, who was unrepresented at the hearing, that the records from that medical provider would be ordered from June 2016 to the present. However, contrary to 20 C.F.R. § 416.912(b)(1) and the ALJ's representation to the plaintiff, the ensuing records request to Baptist only requested records from January 2017 to the present. This failure to develop the record prejudiced the plaintiff because the plaintiff's Baptist records for December 2016 contain

evidence that might have altered the result.

Specifically, the records contain a December 5, 2016 x-ray report that found moderately severe osteoarthritis of the left hip. Without obtaining or considering this report, the ALJ rejected consultative examining physician George Smith's opinion essentially limiting the plaintiff to sedentary work, in part because Dr. Smith's opinion is inconsistent with a June 13, 2018 x-ray report finding only mild degenerative arthritis in both hips. The ALJ discounted the plaintiff's statements about his limitations in part for the same reason. Had the ALJ ordered and considered the Baptist x-ray report finding a more severe degenerative condition, the ALJ might have given more credence to the plaintiff's statements and more weight to Dr. Smith's opinion which, if accepted, would have resulted in a finding of disability under the grid rules.

For these reasons, this case is reversed and remanded to the Commissioner for a rehearing of the plaintiff's application under sentence four of 42 U.S.C. § 405(g).

SO ORDERED, this the 6th day of January, 2020.

/s/ Roy Percy
UNITED STATES MAGISTRATE JUDGE